



The New York Times
Company

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VIA ECF

The Honorable J. Paul Oetken
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: *The New York Times Company v. United States Department of State, No. 22-cv-00791*

Dear Judge Oetken:

I am counsel for plaintiff The New York Times Company (“The Times”) in the above-captioned action brought pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. I submit this joint letter on behalf of all parties pursuant to the Court’s March 7, 2022 Order (Dkt. No. 8). For the reasons set forth below, the parties respectfully submit that the conference scheduled for March 17, 2022 may not be necessary. The parties respectfully propose to provide a status report to the Court on March 25, 2022, which will include an agreed-upon processing schedule.

On January 31, 2022, The Times filed a complaint initiating this action against the United States Department of State (“State Department”). *See* Dkt. No. 1. Pursuant to FOIA, The Times seeks copies of correspondence sent or received by a specific list of U.S. Embassy Officials in the United States Embassy in Romania that mention any of a specific list of keywords. *Id.* On March 1, 2022, the Government filed its answer to The Times’s complaint. *See* Dkt. No. 7. The Court scheduled an initial pretrial conference to be held at 11:00 AM on March 17, 2022. *See* Dkt. No. 8.

The parties have met and conferred concerning a schedule for further proceedings in this matter. The State Department has started identifying records responsive to The Times’s FOIA requests. It has agreed to begin processing records for production as it continues to identify the remaining responsive records. The State Department will make its first production on

April 28, 2022. The parties are still negotiating the number of pages to be processed in and the frequency of each production. The parties respectfully propose to provide a status report to the Court on March 25, 2022, informing the Court of the results of this negotiation.

As this is a FOIA action, the parties anticipate that any legal issues will be resolved through cross-motions for summary judgment without discovery. *See, e.g., Wood v. Fed. Bureau of Investigation*, 432 F.3d 78, 85 (2d Cir. 2005); *Carney v. Dep’t of Just.*, 19 F.3d 807, 812–13 (2d Cir. 1994). Accordingly, the parties respectfully request that they not be required to submit the proposed case management plan and scheduling order called for in the Court’s March 7, 2022 Order (Dkt. No. 8).

The parties respectfully submit that the conference currently scheduled for March 17, 2022, may not be necessary or would be more productive if rescheduled to a date convenient to the Court after March 25, 2022, the proposed date for the parties to provide a status report. If the Court does not wish to adjourn the conference, however, counsel are prepared to appear on March 17 as scheduled.

We thank the Court for its consideration of this submission.

Respectfully submitted,

/s/ David McCraw

David McCraw

cc: All counsel of record (via ECF)